

UNSIGHTLY LAND BY-LAW No. 714

A By-law of the Municipal Corporation of the City of Iqaluit, in Nunavut, to establish and maintain a minimum state of repair and maintenance for property in the City of Iqaluit;

WHEREAS the *Cities, Towns & Villages Act* permits the City to regulate unsightly lands and matters of public health and safety within the City;

AND WHEREAS Council deems it advisable to pass a By-Law to regulate unsightly land and to regulate conditions that pose threats to public health and safety;

AND WHEREAS the purpose of this By-Law is to help prevent unsightly land and to provide a mechanism for the remediation of property deemed unsightly or which poses a threat to public health and safety.

NOW THEREFORE, pursuant to the authority granted by the Act, the Council of the City of Iqaluit, in regular session duly assembled, enacts as follows:

ARTICLE 1 - TITLE

1.01 This By-law shall be cited as the "Unsightly Land By-law."

ARTICLE 2 - INTERPRETATION

2.01 In this By-law:

ACT means the *Cities, Towns and Villages Act*, as amended from time to time.

ANIMAL CARCASS means an animal or any part of an animal that is meant for consumption.

ANIMAL MATERIAL means an animal or any part of an animal not being used in a traditional manner, not meant for consumption, and which is in risk of attracting predators or scavengers.

ANIMAL WASTE means any animal excrement and includes all waste accumulated on property from pet pens, yards, veterinary clinics, or kennels.

BUILDING MATERIAL means all construction and demolition material accumulated on property during construction, alteration or demolition of a structure and includes, but is not limited to, earth or rock displaced during such construction, alteration or repair.

CITY means the Municipal Corporation of the City of Iqaluit.

CLEAN-UP ORDER means an order issued under this By-law by an Enforcement Officer requiring a person to remedy a breach of the By-law.

COUNCIL means the Council of the City of Iqaluit.

DIRECTOR OF CORPORATE SERVICES means the person appointed as Director of Corporate Services of the City and includes any person acting on his behalf.

DIRECTION OF PUBLIC WORKS means the person appointed as Director of Public Works of the City and includes any person acting on his behalf.

ENFORCEMENT OFFICER means a Municipal Enforcement Officer or Building Inspector as appointed by Council.

FENCE means a structure, or any part of a structure, used as an enclosure, divider, or screening around all or part of a lot or site.

INOPERATIVE VEHICLES means such vehicles that are unable to operate as a result of being dismantled, broken, incomplete, decayed or dilapidated, and in particular includes vehicles that are wrecked, unlicensed, abandoned, without a valid license, discarded or missing wheels, tires, body components or windows.

OCCUPANT includes any of the following with respect to a property:

- (i) A person ordinarily entitled to use or occupy property, with the consent or approval of the Owner, whether by license, lease or other arrangement;
- (ii) A family member or other person who occupies property with the Owner or with another Occupant who is permitted to occupy the property by the Owner;
- (iii) A person controlling or authorized to control on behalf of an Owner or Occupant, any property that is under construction, renovation or repair;
- (iii) The Owner, if the Owner actually occupies the property; and
- (iv) The Owner, if no other person occupies or is deemed to occupy the property.

OWNER means the person or persons recorded or entitled to be recorded on municipal tax rolls for the year as leaseholder of the property.

PROPERTY means any land, building or property within the municipal boundaries of the City.

REFUSE means any solid waste of any kind, but does not include turf, earth or rock which accumulates as a result of construction.

RIGHT OF ACCESS means the right of an Enforcement Officer to enter the property to inspect the property to determine whether to issue a Clean-up Order, or to allow Work Forces access to the property for the purposes of enforcing a Clean-up Order.

UNSIGHTLY LAND means any Property or part thereof which is characterized by:

1. a premise not keeping with the surrounding properties with a similar zoning under the Zoning By-Law which when considering the usage of the zone, is not neat, organized, and is not pleasing to the sight due to lack of due care and attention;
2. any property or part of it which is characterized by visual evidence of a lack of general maintenance and upkeep or by the storage and/or accumulation on the property of:
 - a. any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, dirt, soil, gravel, rocks, petroleum products, hazardous materials, disassembled

- equipment or machinery, broken household dishes, utensils, cartons, fabrics, appliances, and furniture;
- b. animal carcass, animal material, animal waste, yard material, ashes, building material, garbage and inoperative vehicles as defined by this By-law;
- c. in the case of external surfaces of buildings, unsightly land means unauthorized signs, posters, billboards, graffiti, obscene or offensive symbols, words, pictures or art; and may include but is not limited to dilapidated paint, siding, trim, and roofing material

VACANT BUILDING means a building which has been unoccupied for a continuous period of more than (3) three months.

WORK FORCES mean City employees or contract workers engaged by the City for the purpose of enforcing a Clean-up Order.

- 2.02 If any provision of the By-law is declared invalid for any reason or the application of the bylaw to any person or circumstance is declared invalid, the remaining provisions shall not be affected thereby, but shall remain in force.
- 2.03 For greater certainty, references to the singular shall include the plural, references to the male gender shall include the female gender, references to the plural shall include the singular, and references to persons shall include corporations.

ARTICLE 3 - ADMINISTRATION AND APPLICATION

- 3.01 No Owner shall allow their Property to be Unsightly Land.
- 3.02 No Occupant shall cause any Property they occupy to be Unsightly Land.
- 3.03 If an Enforcement Officer has reasonable grounds to believe that any Property is Unsightly Land, they may enter upon the Property, with permission, to inspect the Property to determine whether the Property contravenes this By-law.
- 3.04 Before a Clean-Up Order is issued a verbal/written warning shall be given with a time frame of (30) thirty days to clean up the issue that contravenes this By-law. If there is no change after the (30) thirty days a Clean-Up Order may be issued.

ARTICLE 4 - VACANT BUILDINGS

- 4.01 Where any property is vacant or unoccupied, the Owner shall protect such property against the risk of accident or intentional damage to the property arising from the entry of unauthorized persons to the property, by preventing entrance by unauthorized persons, in the most effective manner possible.

ARTICLE 5 - FIRE HAZARDS

- 5.01 If an Enforcement Officer, in consultation with the Fire Chief, deems an Unsightly Property or Vacant Building to be or likely to become a fire hazard or safety hazard for the occupants or general public, the Enforcement Officer may issue a Clean-up Order requiring items on the Property be amended, altered or removed to eliminate the fire or safety hazard.
- 5.02 Council shall allow any person affected by a Clean-up Order issued under 5.01 an opportunity to be heard. Notice of the hearing shall be served at least thirty (30) days prior to the hearing, unless Council is of the opinion that there is imminent danger to public health and safety.

ARTICLE 6 - CONSUMABLE ANIMAL STORAGE

- 6.01 An Animal Carcass should be stored in a manner that prevents the attraction of flies, maggots, predators and scavengers
- 6.02 Exception to this article is for the feeding of house hold animals and/or dog teams.

ARTICLE 7 - PROHIBITED ACTS

- 7.01 No Owner shall cause or permit refuse, litter, appliances, Inoperative Vehicles, or construction debris to accumulate on their Property unless the City has designated the Property as a sanitary landfill site, except as part of a business lawfully operated on the premises.
- 7.02 No Occupant shall cause or permit refuse, litter, appliances, Inoperative Vehicles or construction debris to accumulate on Property he occupies, except as part of a business lawfully operated on the premises.
- 7.03 No Person shall deposit Refuse, litter, appliances, Inoperative Vehicles or construction on public lands or private lands, unless such lands are designated as a sanitary landfill site.
- 7.04 No Owner shall allow a shed, shipping container or similar structure on their Property to be in bad repair.
- 7.05 No Owner shall cause or permit any property they own to become Unsightly or in a condition that poses a risk to public health and safety.
- 7.06 No Occupant shall cause or permit any property they occupy to be used in a manner that poses a risk to public health and safety.
- 7.07 No person shall permit refuse or Building Material to accumulate on any property if it poses a risk to public health and safety.
- 7.08 No Owner shall allow an Occupant to use property in contravention of this bylaw.

ARTICLE 8 - CLEAN-UP ORDERS

8.01 If an Owner or Occupant of property breaches this bylaw, an Enforcement Officer shall give a verbal/written warning. If the verbal/written warning is found ineffective, the Enforcement Officer may issue a Clean-up Order requiring the Owner or Occupant, as the circumstances require, to remedy the breach of the bylaw.

8.02 A Clean-up Order may require an Occupant to do one or more of the following:

- (a) To remedy the condition of the property in a manner as directed in the Clean-up Order (provided that the Clean-up Order shall not require an Occupant to remedy or repair any building or other structure unless the Occupant is also the Owner of the property);
- (b) To remove any or all material, including Inoperative Vehicles, causing or contributing to the unsightly land;
- (c) To place all waste materials in waste receptacles; or
- (d) To remedy or correct any unsafe condition relating to the Occupant's use of the property (but not relating to the condition of any building or structure on the property),

within a period of time specified in the Clean-up Order, which shall be not more than thirty (30) business days nor less than fourteen (14) days from the date of issue of the Clean-up Order.

8.03 A Clean-up Order may require an Owner to do one or more of the following:

- (a) To repair or demolish any building or structure that is considered Unsightly;
- (b) To remove any or all refuse material, including Inoperative Vehicles, causing or contributing to the unsightly land;
- (c) To place all refuse or waste materials in waste receptacles; or
- (d) To remedy or correct any unsafe condition on the Property;

within a period of time specified in the Clean-up Order, which shall be not more than thirty (30) business days nor less than fourteen (14) days from the date of issue of the Clean-up Order.

8.04 For greater certainty, a Clean-up Order relating to any alleged Unsightly building or unsafe condition of any building or structure on property may only be issued to an Owner of that property.

8.05 A Clean-up Order:

- (a) Shall include the municipal address, legal description, or other means of identifying the property;
- (b) Shall state the manner in which the property contravenes this By-law;
- (c) Shall state the time when the Clean-up, removal, repair or other actions are to be completed;

- (d) Shall state that if the Clean-up Order is not completed within the time specified, the City may carry out the actions required and charge the cost thereof against the person whom the Order is directed and if such person does not pay the cost, the payment will be charged against the property concerned as taxes due and owing in respect of that property;
 - (e) May be addressed to "the Occupant" if the identity of the Occupant is not known to the City;
 - (f) Shall state that an appeal must be made within twenty-one (21) business days of the date of issuance of the Clean-up Order.
- 8.06 The Owner or Occupant shall comply with the directions of the Clean-up Order as set by the Enforcement Officer.
- 8.07 A Clean-up Order issued to an Occupant of property shall also be served on the Owner of the property if the Owner is not the Occupant.
- 8.08 A Clean-up Order or notice relating thereto may be served in any of the following ways:
- (a) By being delivered personally to the person who is intended to be served;
 - (b) By registered mail to the person to be served to the last known mailing address, and service shall be deemed to be effected at the time the copy is delivered by an official of the Post Office to the person served;
 - (c) By posting the Clean-up Order or a copy of the Clean-up Order in a conspicuous place on the property to which the Clean-up Order relates, if personal service is not likely to be effective or the identity of the Occupant is unknown; or
 - (d) As directed by the court.
- 8.09 The Enforcement Officer may extend the time for completing the work under the Clean-up Order, but such extension must be made in writing.
- 8.10 If:
- (a) The Owner or Occupant, as the case may be, fails to carry out the Clean-up Order within the time frame stated in the Clean-up Order, and
 - (b) The Clean-up Order is not being appealed,
- then an Enforcement Officer may enter upon the property and, with whatever work forces are necessary, perform such repair, demolition, removal of rubbish, debris or Inoperative Vehicles as may be necessary to make the property comply with the terms of the Clean-up Order.
- 8.11 The work force that is appointed may remove any fencing or other obstructions in carrying out the Clean-up Order and shall restore any obstructions moved in the process of carrying out the Clean-up Order back to a state of repair prior to when the Clean-up Order was completed.

- 8.12 The expenses incurred by the City in carrying out the Clean-up Order under this By-law shall constitute a debt owing to the City from the person to which the Clean-up Order was directed and the Owner of the property if the Occupant is not the Owner.
- 8.13 After obtaining the amount of the expenses incurred by the City in carrying out the Clean-up Order, the Director of Corporate Services shall send a demand for payment for the expenses to the Owner.
- 8.14 Where the City carries out a Clean-up Order under this By-law and the Owner fails, within the one (1) year after demand for payment, to pay the expenses incurred by the City, the Director of Corporate Services shall place the amount of the expenses incurred in carrying out the Clean-up Order on the tax roll as an additional tax against the property concerned and that amount:
- (a) Forms a lien on the property in favour of the City; and
 - (b) Shall, for the purposes, be deemed to be taxes imposed and assessed on the property and delinquent under the *Property Assessment and Taxation Act* from the date the expenses were incurred, and this By-law shall apply to the enforcement, collection and recovery of the amount.
- 8.15 Where the City carries out a Clean-up Order under this By-law, the work forces shall deposit the material removed from the property at a location designated by the Director of Public Works, and shall notify the Owner or Occupant, as the case may require, that the material may be removed from that location within fourteen (14) business days.
- 8.16 Notwithstanding subsection 8.15 where the Enforcement Officer is of the opinion that the items removed from the property under subsection 8.15 have no value or are a safety hazard, he may direct that items be disposed of immediately.
- 8.17 When any material is removed from property under subsection 8.15, the Director of Public Works may direct that the material be disposed of if the Owner or Occupant (as the case may be) has not removed the material within fourteen (14) business days of being requested in writing to do so.
- 8.18 Every Enforcement Officer appointed pursuant to this By-Law may enter into or upon any property within the city at a reasonable time for inspection purposes or in order to enforce the provisions of this By-Law.
- 8.19 Where the entrance into or upon any property in the city limits is refused, a Judge, upon application made on behalf of council, may by order require the Owner to admit the Enforcement Officer into or upon the property for the purpose of an inspection.
- 8.20 The order by a Judge under this section continues until the purpose is complete or as otherwise provided in the order.

ARTICLE 9 - APPEALS

- 9.01 Where a Clean-up Order is issued according to subsection, the Owner or Occupant may appeal the Clean-up Order to Council within twenty one (21) business days of the date of issue of the Clean-up Order.
- 9.02 A Notice of Appeal shall:
- (a) Be in writing;
 - (b) State with reasonable exactness the grounds of appeal;
 - (c) State the name, address, and interest of the appellant in the property;
 - (d) Be dated, and signed by the appellant or on their behalf by their agent and, if signed by an agent, shall state the name and address of agent; and
 - (e) Be served on the Chief Administrative Officer of the City within twenty-one (21) days of the date of issue of the Clean-up Order.
- 9.03 Where a Clean-up Order is appealed pursuant to subsection 9.01, the Clean-up Order is stayed pending a decision by Council.

ARTICLE 10 - HEARING PROCEDURE

- 10.01 The Chief Administrative Officer shall, upon receipt of the Notice of Appeal, set a date for the hearing of the appeal which shall be within thirty (30) days of receiving the Notice of Appeal.
- 10.02 Council shall consider the appeal having regard to the applicable provisions of this By-Law, and the circumstances and merits of the case.
- 10.03 In hearing the appeal, Council shall:
- (a) not be bound by the technical evidence; and
 - (b) allow every person concerned the opportunity to be heard, and to submit evidence and hear evidence of others.
- 10.04 In determining an appeal, Council may confirm, reverse, or vary the Clean-up Order appealed from, and may impose conditions or limitations that are considered proper.
- 10.05 A decision of Council is final.

ARTICLE 11 - VIOLATIONS AND PENALTIES

- 11.01 Any person who contravenes any provision of this By-Law is guilty of an offence and is liable to summary conviction to:
- (a) Fine up to and not exceeding two thousand (\$2,000.00) dollars for an individual;
 - (b) Fine up to and not exceeding ten thousand (\$10,000.00) dollars for a corporation;
 - (c) Any other order that may be imposed by the Court as outlined in Section 183 of the Cities, Towns and Villages Act.
- 11.02 For greater certainty, a Clean-up Order may be issued in addition to any fine imposed on an Owner or Occupant.
- 11.03 No person found guilty under this By-Law shall be liable to imprisonment.
- 11.04 A Municipal Enforcement Officer may issue a summary offence ticket information in the form prescribed by the *Summary Conviction Procedures Act* and Regulations, to any person who violates any provision of this By-Law and such person may, in lieu of prosecution, pay the City the fine set out in Schedule "A" of this By-Law for the offence, prior to the court date specified on the ticket information.
- 11.05 Any violation of this By-Law is a continuing offence and a separate offence for each day the offence continues, and the penalties provided for in this By-Law shall apply for each day the offence continues.

ARTICLE 12 - EFFECTIVE DATE

- 12.01 This By-Law comes into full force and effect on the day that it is read for a third time by Council.

ARTICLE 13 – CONFLICTING STANDARDS

- 13.01 Where any provisions of this By-Law conflicts with the Provisions of any regulation, By-Law or statute of any government authority, the higher or more stringent standard shall prevail.

THIS BY-LAW READ a First Time this 11th day of January, 2011 A.D.

Madeleine Redfern
Mayor

John Hussey
Chief Administrative Officer

THIS BY-LAW READ a Second Time this 22 day of November, 2011 A.D.

Madeleine Redfern
Mayor

John Mabberi-Mudonyi
A/Chief Administrative Officer

THIS BY-LAW READ a Third and Final Time this 13 day of December, 2011 A.D.

Madeleine Redfern
Mayor

John Hussey
Chief Administrative Officer

SCHEDULE "A"

FINES

Amount

1. For Individuals

Penalty for First Offence	\$ 50.00
Penalty for Second Offence	\$ 100.00
Penalty for Subsequent Offences	\$ 200.00

2. For Corporations/Businesses

Penalty for First Offence	\$ 500.00
Penalty for Subsequent Offences	\$ 1000.00

SCHEDULE "B"

ORDERS



**Municipality of the City of Iqaluit, NU
By-law No. #714**

VERBAL / WRITTEN WARNING

To: (Name of Owner or Occupant)
(Mailing Address)

**RE: those premises located at Lot: Block: Plan:
Civic Address:
in the Municipality of the City of Iqaluit**

Whereas an Enforcement Officer has deemed the above property to be unsightly as defined in By-law No. ##, "Unsightly Land By-Law" by reasons of:

The following actions are required:

To be completed no later than: _____

If the required actions are not carried out by the above date, the Municipality may carry out the actions required and charge the cost thereof against the Owner of the property. If the Owner does not pay the costs, the costs shall be charged against the property concerned as Municipal Service Costs due and owing in respect of that property.

*An appeal may be made to Council, if the appeal is lodged in writing to the Chief Administrative Officer
Within twenty-one (21) days of issuance of this Order.*

A copy of the Unsightly Land By-law is available upon request.

Date of Notice

Signature (Owner)

Date of Notice

Signature (Enforcement Officer)



Municipality of the City of Iqaluit, NU By-law No. 714

CLEAN UP ORDER

To: (Name of Owner or Occupant)
(Mailing Address)

RE: those premises located at Lot: Block: Plan:
Civic Address:
in the Municipality of the City of Iqaluit

Whereas an Enforcement Officer has deemed the above property to be unsightly as defined in By-law No. ##, "Unsightly Land By-Law" by reasons of:

The following actions are required:

To be completed no later than: _____

If the required actions are not carried out by the above date, the Municipality may carry out the actions required and charge the cost thereof against the Owner of the property. If the Owner does not pay the costs, the costs shall be charged against the property concerned as Municipal Service Costs due and owing in respect of that property.

*An appeal may be made to Council, if the appeal is lodged in writing to the Chief Administrative Officer
Within twenty-one (21) days of issuance of this Order.*

A copy of the Unsightly Land By-law is available upon request.

Date of Notice

Signature (Enforcement Officer)